

REMARKS/ARGUMENTS

Claims 1-3, 5, 6 and 9 stand rejected, claim 7 is allowed and claim 4 is objected to in the outstanding non-final Official Action. Claim 2 was cancelled in the Amendment filed March 4, 2004. Claims 3 and 9 are amended and therefore claims 1, 3-7 and 9 remain in this application.

In the outstanding Official Action, the Examiner makes a new rejection of claim 3 under 35 USC §112 with respect to claim language which has been present in claim 3 since it was initially filed on May 15, 2001. Now the Examiner objections to the phrase “the datum vacuum value,” although Applicant contends that this term is well known to those of ordinary skill in the art in the context of the language of Applicant’s claim. Nonetheless, Applicant has deleted a portion of the phrase so that the claim language now reads “a predetermined acceptable drop in vacuum value over the same predetermined time.” Clear antecedent basis for this term exists in sections (iv) and (v) of claim 3. Therefore, any further objection to claim 3 under 35 USC §112 is respectfully traversed.

Claims 1, 2 and 5 stand rejected under 35 USC §103 as unpatentable over Johnston (U.S. Patent 5,404,747) in view of Newbill, Jr. (U.S. Patent 2,647,399), Schupack (U.S. Patent 4,979,390), Doris (U.S. Patent 6,564,614), Bogle (U.S. Patent 5,319,956), Bosselaar (U.S. Patent 3,738,156) and McRae (U.S. Patent 5,161,408).

Claim 3 stands rejected under 35 USC 103 as unpatentable over the Johnston/Newbill, Jr./Schupack/Bogle/Bosselaar combination.

Claim 9 stands rejected under 35 USC §103 as unpatentable over the Johnston/Newbill, Jr./Schupack/Bogle/Bosselaar/McRae combination.

Claim 6 stands rejected under 35 USC §103 as unpatentable over the Johnston/Newbill, Jr./Schupack/Doris/Bogle/Bosselaar/McRae/Frenkel combination.

In view of the arguments made in applicants Appeal Brief regarding the above references, reconsideration of the rejection of the above claims is requested. Moreover, Doris is not available as a reference against claims in this application.

Telephone Interview with Supervisor Hezron Williams

The telephone interviews with supervisor Hezron Williams on February 3, 2005, February 14, 2005 and February 15, 2005 are very much appreciated. During the telephone interview, Applicant's representative pointed out that the outstanding Official Action almost identical to the third Official Action, from which an Appeal was taken. The current Action is the fourth Official Action in this application and the Examiner's position is that he can combine seven different references in support of a rejection under 35 USC §103.

The Examiner's supervisor confirmed that the primary cited reference of Johnston did not disclose major features of Applicant's independent claims. Applicant also pointed out that of the two newly cited references, Doris and McRae, (all other references were previously cited and were considered and responded to in the Appeal Brief previously filed by Applicant), the Doris reference was unavailable as a prior art reference. It is noted that Doris was filed on April 25, 2001, and Applicant's present application, although filed February 21, 2002, is based upon a PCT Application which was filed June 26, 2001 which claims priority from a GB Application filed June 28, 2000. Because Applicant has priority of invention prior to the filing date of the Doris reference, Doris cannot possibly be a reference under 35 USC §103.

Agreement was reached during the telephone interview with Examiner Williams that upon Applicant's filing the above minor amendment and a request for reconsideration of the

NADIN
Appl. No. 10/069,049
February 15, 2005

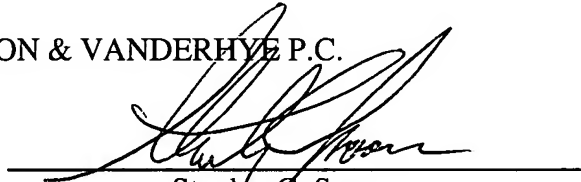
rejections under 35 USC §103, that the Patent Office position would be that, as amended, all claims would be in condition for allowance and notice to that effect would be forwarded.

Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that pending claims 1, 3-7 and 9 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate the forwarding of a Notice of Allowance, he is respectfully requested to contact Applicant's undersigned representative.

Respectfully submitted,

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